

NINETY-SIXTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 52

Introduced by C. Peterson, 35; Jensen, 20; Suttle, 10; Thompson, 14

PURPOSE: To study the current and possible future role of the State of Nebraska in the oversight, regulation, and distribution of Schedule II controlled substances, as it pertains to individuals receiving hospice care and individuals in hospice programs operated by certified, licensed medical facilities in the State of Nebraska.

Public policy should recognize the dual effect of controlled substances on public health to obtain the broadest of medical benefits while reducing the risks of diversion and abuse. When controlled substances are used for medical purposes, they can provide great improvements in the quality of life for people with debilitating diseases, conditions, and pain.

A balanced drug policy should provide ample authority to address problems without interfering in the use of controlled substances in the medical care of patients. Drug laws have a dual purpose; achieving both ends must be emphasized, and only in this way will the greatest health benefit be realized.

This study is requested on the belief that hospice care in Nebraska should be founded on the conviction that the final stages of life should be lived with the greatest degree of comfort and dignity possible.

The study shall include the following elements:

1. A review of the Code of Federal Regulations, Title 21, Chapter II, Drug Enforcement Administration, Part 1306, Controlled Substances in Schedule II shall be conducted. This study shall examine current statutory guidelines and review federal laws pertaining to the distribution of Schedule II controlled substances to the hospice patient. A comparison and analysis of both federal and state laws shall be made.

2. An analysis of the term "emergency situation" and a determination as to how it applies to the care of a patient receiving hospice care, including whether a terminally ill patient qualifies as an "emergency situation" under state or federal law.

3. Under subdivision (1)(a) of section 28-414 a schedule II controlled substance cannot be dispensed without a written prescription except in emergency circumstances and as provided under subdivision (1)(b) of section 28-414. In the age of the facsimile, a physician can fax the prescription to a pharmacist who can then deliver it if the patient is in a long-term facility. The study shall include an analysis of whether only residents of long-term care facilities receive this consideration or whether persons entering hospice programs in terminal condition also should be accorded the same privileges as if they were in a long-term care facility or hospital.

4. A review of current statutes as they apply to the duties of the county coroner and his or her responsibility or protocol as related to unattended deaths.

5. To address these issues, individuals from the Nebraska Hospice Association shall be contacted and included in

this study in order to obtain additional input and insight into specific areas of concern and the problems associated with hospice care.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SIXTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Health and Human Services Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

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PRESIDENT OF THE LEGISLATURE

I, Patrick J. O'Donnell, hereby certify that the foregoing is a true and correct copy of Legislative Resolution 52, which was passed by the Legislature of Nebraska in the Ninety-sixth Legislature, First Session, on the XXXX(words)XXXX day of March 1999.

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CLERK OF THE LEGISLATURE